IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5231 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : B.P. DHARMADHIKARI, J.
JANUARY 22, 2007.

Heard Shri Mardikar, learned counsel for the petitioner - husband and Shri Joshi, learned counsel for the respondent – wife.

The wife has filed a HMP No. 68 of 2003 for declaration of marriage as null and void. The petitioner – husband has also filed HMP No.24 of 2003 for restitution of conjugal rights. These proceedings are pending in the same Court.

It appears that in HMP moved by the wife, the petitioner – husband filed application for staying further proceedings on the ground that he would be required to disclose his defence. That application has been rejected on 2.9.2005.

Shri Mardikar, learned counsel argues that the wife has also filed FIR on 6.2.2003 and criminal prosecution for offence under Sections 420, 471, 468, 384 read with Section 34 of I.P.C. has been registered. It is argued that if the trial proceeds, there will be examination in chief and cross

examination and defence of petitioner in said prosecution would be prejudiced.

Shri Joshi, on the other hand, argues that the Court below has considered all aspects and he states that written statement has been filed by the petitioner – husband in HMP on 14.3.2005.

I have perused the record. It is apparent that after cognizance of F.I.R. was taken as Crime No. 82 of 2003, the present petitioner has filed written statement in HMP No.68 of 2003 on 14.3.2005. It is, therefore, also apparent that defence is already disclosed and there is no question of any prejudice as such to the petitioner. There is no jurisdictional error or perversity in the approach of the Court below.

No case is, therefore, made out for interference in writ petition. Writ Petition is dismissed. Further proceedings in HMP No.68 of 2003 and HMP No. 24 of 2003 are clubbed together for joint trial.

JUDGE

*GS.